
Introduced by Senator Speier

February 22, 2005

An act to add Section 4665 to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 916, as introduced, Speier. Workers' compensation: defined benefits plans: disability indemnity benefits.

Existing workers' compensation law requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law provides that an injured employee is entitled to various types of benefits including temporary and permanent disability benefits and life pension benefits, depending on the nature and extent of the injury.

This bill would require a claims administrator to suspend or reduce the amount of workers' compensation indemnity benefits, including temporary disability benefits, permanent disability benefits, and lifetime pension benefits that a retired employee in a defined benefit retirement plan may receive based on the amount of the retirement allowance received by the employee.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that it is
- 2 contrary to the intent of the laws governing workers'
- 3 compensation indemnity benefits and to public policy to have
- 4 workers' compensation indemnity benefit payments provided to

1 retirees of a defined benefit retirement plan when the
2 combination of the workers' compensation indemnity benefit
3 payment and pension payment would exceed the income than the
4 employee would have received had he or she not retired.

5 SEC. 2. Section 4665 is added to the Labor Code, to read:

6 4665. (a) The amount of workers' compensation indemnity
7 benefits, including temporary disability benefits, permanent
8 disability benefits, and lifetime pension benefits that a retired
9 employee in a defined benefit retirement plan may receive under
10 this division shall be limited pursuant to this section.

11 (b) (a) A claims administrator, as defined in Section 138.4,
12 shall do all of the following:

13 (1) Suspend indemnity benefit payments when the total
14 retirement allowance received by the person is greater than 90
15 percent of the person's final compensation.

16 (2) Reduce indemnity benefit payments when the total of the
17 indemnity benefit and retirement allowance would exceed 90
18 percent of the person's final compensation so that the combined
19 payments would equal 90 percent of the person's final
20 compensation.

21 (3) Reinstate indemnity benefit payments on receipt of a
22 written request by the person and verification that their defined
23 benefit retirement allowance has ended or has otherwise fallen
24 below 90 percent of their final compensation. Indemnity benefit
25 payments shall be retroactive only to the date of the receipt of the
26 written request.

27 (c) Any defined benefit retirement plan making payments to
28 retired employees who are eligible for workers' compensation
29 benefits under California law shall release to the workers'
30 compensation claims administrator any information as may be
31 necessary to comply with this section.

32 (d) As used in this section, "final compensation" means the
33 final compensation determination used by a defined benefit
34 retirement plan to calculate the retired employee's retirement
35 allowance, which may or may not exceed the person's salary.

36 (e) The indemnity benefit payment adjustment determination
37 shall be made at the time of the initiation of any defined
38 retirement benefit payments, which may or may not include
39 disability retirement benefits, and shall not be modified to

1 account for cost-of-living increases subsequently provided under
2 the defined benefit retirement plan.

3 (f) This section shall not limit or reduce any medical, death
4 benefit, or other workers' compensation benefits allowed under
5 this division or increase any indemnity benefit.

6 (g) This section shall apply to all indemnity benefit payments
7 due on or after January 1, 2006. However, suspension or
8 reduction of any indemnity benefit payment shall occur only after
9 written notice has been provided to the person receiving these
10 payments.